

BEFORE THE ARIZONA VETERINARY MEDICAL EXAMINING BOARD

IN THE MATTER OF:

JOHN OPLINGER, DVM,

HOLDER OF LICENSE NO. 1192 FOR THE
PRACTICE OF VETERINARY MEDICINE
IN THE STATE OF ARIZONA,

AND

PREMISES LICENSE NO. R3661, ISSUED
TO WICKENBURG VETERINARY CLINIC,

CASE No.: 21-146

CONSENT AGREEMENT,
FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER FOR STAYED
REVOCATION PROBATION

RESPONDENTS.

In the interest of a prompt settlement of the above captioned matter, consistent with the public interest, statutory requirements and responsibilities of the Arizona State Veterinary Medical Examining Board ("Board"), and pursuant to A.R.S. §§ 32-2201 *et. seq.*, § 32-2234(E), and § 41-1092.07 (F)(5), John Oplinger, DVM ("Respondent"), holder of License no. 1192 for the practice of veterinary medicine in Arizona and Premises License no. R3661, and the Board enter into this Consent Agreement and Order ("Consent Agreement") as a final disposition of this matter.

RECITALS

Respondent understands and agrees that:

1. Any record prepared in this matter, all investigative materials prepared or received by the Board concerning the allegations, and all related

1 materials and exhibits may be retained in the Board's file pertaining to this
2 matter.

3 2. While Respondent has the right to a formal administrative hearing
4 at which Respondent can present evidence and cross examine the State's
5 witnesses, Respondent agrees to the issuance of the included Order and
6 Respondent hereby irrevocably waives his right to such a formal hearing
7 concerning these allegations and irrevocably waives his right to any rehearing
8 or judicial review relating to the allegations contained in this Consent
9 Agreement. Respondent further waives any and all claims or causes of action,
10 whether known or unknown, that Respondent may have against the State of
11 Arizona, the Board, its members, offices, employees and/or agents arising out of
12 this matter.

13 3. Respondent understands that he has the right to consult with an
14 attorney prior to entering into this Consent Agreement and such consultation
15 has either been obtained or is waived.

16 4. Respondent acknowledges and agrees that upon signing this
17 Consent Agreement and returning it to the Board's Executive Director,
18 Respondent may not revoke his acceptance of this Consent Agreement or
19 make any modifications to it. Any modifications of this original document are
20 ineffective and void unless mutually approved by the parties in writing.

21 5. The findings contained in the Findings of Fact portion of this
22 Consent Agreement are conclusive evidence of the facts stated herein and
23 may be used for purposes of determining sanctions in any future disciplinary
24 matter.
25

1 6. This Consent Agreement is subject to the Board's approval and will
2 be effective only when it is accepted on the Board's behalf. In the event the
3 Board, in its discretion, does not approve this Consent Agreement, this Consent
4 Agreement is withdrawn and shall be of no evidentiary value, nor shall it be
5 relied upon or introduced in any disciplinary action or judicial action by any
6 party hereto, except that Respondent agrees that should the Board reject this
7 Consent Agreement and this case proceeds to hearing, Respondent shall
8 assert no claim that the Board was prejudiced by its review and discussion of
9 this document or of any records relating thereto.

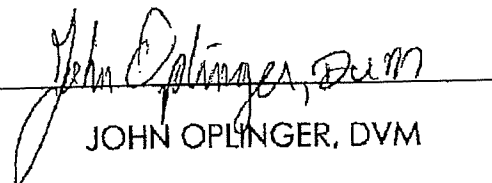
10 7. Respondent understands that once the Executive Director signs this
11 Consent Agreement on behalf of the Board, it is a public record that may be
12 publicly disseminated as a formal action of the Board.

13 8. If any part of the Consent Agreement is later declared void or
14 otherwise unenforceable, the remainder of the Order in its entirety shall remain
15 in full force and effect.

16 9. Respondent acknowledges that any violation of this Consent
17 Agreement constitutes unprofessional conduct pursuant to A.R.S. § 32-2232 and
18 may result in disciplinary action pursuant to A.R.S. § 32-2234.

19 10. Respondent admits to the following Findings of Fact, Conclusions of
20 Law and Order.

21
22 DATED this 24th day of November 2021.

23
24 
25 JOHN OPLINGER, DVM

1 Based on the evidence before it, the Board makes the following Findings of Fact
2 and Conclusions of Law:
3

4 **FINDINGS OF FACT**

5 1. The Board is the duly constituted authority for the regulation and
6 control of the practice of veterinary medicine in the State of Arizona.

7 2. Respondent is the holder of License no. **1192**, issued on June 13,
8 1979, and is therefore authorized to practice the profession of veterinary
9 medicine in the State of Arizona.

10 3. Respondent is also the holder of Premises License no. **R3661** issued
11 to Wickenburg Veterinary Clinic ("Premises"). Respondent is the Responsible
12 Veterinarian for the Premises.
13

14 4. The Board has jurisdiction over Respondent as the Responsible
15 Veterinarian pursuant to **A.R.S. § 32-2274(A)** as it relates to **A.R.S. § 32-2233** and
16 **A.R.S. § 32-2232. The Board also has jurisdiction over Respondent as the holder**
17 **of the Premises license pursuant to A.R.S. § 32-2274(A).**
18

19 5. On April 7, 2003, a premises inspection was conducted of the
20 Premises. Multiple potential violations were identified. Respondent notified the
21 Board that the potential violations had been corrected.

22 6. On November 23, 2009, another inspection was conducted at the
23 Premises. Multiple potential violations were identified. Several of the violations
24 were identical to the ones identified during the April 2003 inspection.
25

1 Respondent notified the Board that the potential violations had been
2 corrected.

3 7. On July 20, 2016, another inspection was conducted – repeat
4 potential violations were found once again. Again Respondent advised the
5 Board that potential violations had been rectified.

6 8. In the spring of 2021, the Board received a new application for the
7 Premises. The application indicated a change of ownership. As part of the
8 application review process, on April 23, 2021, an inspection was conducted on
9 the Premises. Multiple potential violations were found and many were the same
10 violations that were noted during previous inspections.

11 9. Specifically, the following nine violations were also found during
12 previous inspections: 1) expired supplies (this is the same violation that was
13 found at the Premises inspection conducted on 4/7/03 and 11/23/09); 2) failure
14 to document in the medical records that aftercare instructions were provided
15 to the pet owner (this is the same violation that was found at the Premises
16 inspection on 7/20/16); 3) failure to record in the medical records the results of
17 the exams and general condition of the animals within six hours of surgery or
18 anesthesia being administered (this is the same violation that was found at the
19 Premises inspection conducted on 11/23/09 and 7/20/16); 4) failure to record
20 the animal's heart rate and respiration rate in the medical record immediately
21 after anesthesia was administered and monitored and recorded at least every
22 15 minutes thereafter (this is the same violation that was found at the Premises
23
24
25

1 inspection conducted on 11/23/09 and 7/20/16); 5) failure to maintain a
2 controlled substance inventory log (this is the same violation found at the
3 Premises inspection conducted on 4/7/03, 11/23/09 and 7/20/16); 6) failure to
4 properly maintain a controlled substance dispensing log (this is the same
5 violation that was found at the Premises inspection on 11/23/09); 7) failure to
6 consistently record exam results, including TPR and the general condition of the
7 animal at each visit where veterinary services were provided (this is the same
8 violation that was found at the Premises inspection conducted on 4/7/03,
9 11/23/09, and 7/20/16); 8) failure to consistently record in the medical records
10 the concentration and amount of medications administered to animals (this is
11 the same violation that was found at the Premises inspection on 7/20/16); and
12 9) failure to keep controlled substances stored under lock and key except for
13 those that are authorized by the Responsible Veterinarian to be administered
14 by personnel (this is the same violation that was found at the Premises
15 inspection on 7/20/16).
16
17

18 CONCLUSIONS OF LAW

19 1. The conduct and circumstances described in the Findings of Fact
20 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
21 **2232(18)** and **A.A.C. R3-11-502(D)** (expired supplies).
22

23 2. The conduct and circumstances described in the Findings of Fact
24 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
25

1 **2232(18)** and **A.A.C. R3-11-502(E)** (failure to consistently document in the
2 medical record that aftercare instructions were given to the pet owner).

3 3. The conduct and circumstances described in the Findings of Fact
4 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
5 **2232(18)** and **A.A.C. R3-11-502(H)(2)** (failure to record in the medical record
6 results of exam and general condition of an animal within 6 hours of surgery or
7 anesthesia being administered).

8 4. The conduct and circumstances described in the Findings of Fact
9 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
10 **2232(18)** and **A.A.C. R3-11-502(H)(3)** (failure to record the animal's heart rate
11 and respiration rate in the medical record immediately after anesthesia is
12 administered and monitored and recorded at least every 15 minutes
13 thereafter).

14 5. The conduct and circumstances described in the Findings of Fact
15 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
16 **2232(18)** and **A.A.C. R3-11-502(K)(2)** (failure to maintain a controlled
17 substance inventory log).

18 6. The conduct and circumstances described in the Findings of Fact
19 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
20 **2232(18)** and **A.A.C. R3-11-805(K)(3)** (failure to properly maintain a controlled
21 substance dispensing).

1 7. The conduct and circumstances described in the Findings of Fact
2 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
3 **2232(18)** and **A.A.C. R3-11-502(L)(4)** (failure to consistently record exam results,
4 including TPR and general condition of animals at each visit that veterinary
5 services are provided).

6 8. The conduct and circumstances described in the Findings of Fact
7 constitute a violation of **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-**
8 **2232(18)** and **A.A.C. R3-11-502(L)(7)** (failure to consistently record in the
9 medical record the concentration and amount of medications administered to
10 animals).

11 9. The conduct and circumstances described in the Findings of Fact
12 constitute a violation **A.R.S. § 32-2274(A)(3)** as it relates to **A.R.S. § 32-2232(18)**
13 and **A.A.C. R3-11-805(A)** (failure to keep controlled substances stored under
14 lock and key except for controlled substances that are authorized by the
15 Responsible Veterinarian to be administered by personnel).

16 10. In view of the above Findings of Fact, Conclusions of Law and
17 consent of Respondent, the Board hereby issues the following Order:
18
19

20 **ORDER**
21

22 1. Respondent consents to the terms and conditions of the Order and
23 waiver of hearing is accepted.
24
25

1 2. **IT IS ORDERED THAT** Respondent's Premises License no. R3661 is
2 hereby **revoked**, however, the **revocation is stayed** pending Respondent's
3 compliance with the Order.

4 3. **IT IS FURTHER ORDERED THAT** Respondent's veterinary License no.
5 1192 be placed on **PROBATION** for a period of two (2) years subject to the
6 following terms and conditions:

7 4. If Respondent is non-compliant with any of the terms of the Order
8 during the Stayed Revocation period, the stay of the revocation shall be lifted
9 and Respondent's premises license shall be automatically revoked. The Board,
10 in its sole discretion, shall determine noncompliance with the stayed portion of
11 the Order. Respondent waives any and all rights to any further review, hearing,
12 rehearing or judicial review of any premises revocation imposed pursuant to this
13 paragraph.
14

15 5. Additionally, the Board may take further disciplinary action for
16 noncompliance with this Consent Agreement and Order after affording
17 Respondent notice and the opportunity to be heard.
18

19
20 Practice Monitor/Reviewer

21 6. Within 45 days from the effective date of the Consent Agreement,
22 Respondent shall submit to the Board the name and contact information of at
23 least one suggested Practice Monitor/Reviewer that the Respondent has
24 identified who can assist Respondent with the requirements of the Order.
25

1 7. Once the Board or the Board's designee has approved the
2 Practice Monitor/Reviewer, Respondent shall ensure that such Practice
3 Monitor/Reviewer is provided with a copy of this Consent Agreement and
4 copies of past premises inspection reports completed by Board staff. The
5 Practice Monitor/Reviewer shall confirm, in writing to the Board, within ten (10)
6 days of receipt of the documents, that he or she has reviewed the Consent
7 Agreement and past premises inspection reports.

8 8. Within 30 days of Board approval of the selected
9 Monitor/Reviewer, that individual shall conduct an audit of Wickenburg Animal
10 Clinic in relation to compliance with statutes and administrative rules that
11 pertain to the Arizona Veterinary Medical Examining Board, and specifically
12 note the status of violations noted in this Consent Agreement.

13 9. Within 45 days after the Board approves the Monitor/Reviewer
14 selection, the Monitor/Reviewer shall submit a written report to the Board. The
15 report shall include audit results and plans and recommendations for
16 addressing issues previously noted by the Board, as well as any new non-
17 compliant premises and medical record issues identified. The report shall
18 include a schedule of planned actions to take place, including any staff
19 training that may be recommended, and how corrections made will be
20 maintained in the future.

21 10. Respondent shall cause the Practice Monitor/Reviewer to submit
22 written quarterly reports to the Board regarding the status of Wickenburg
23
24
25

1 Animal Clinic for the remaining term of monitoring of the Stayed Revocation. If
2 the Practice Monitor/Reviewer identifies any problems related to the practice
3 areas identified in paragraph 9 of the Findings of Fact, the Practice
4 Monitor/Reviewer shall immediately notify the Board and Respondent shall
5 appear before the Board at its next regularly scheduled meeting.

6 11. Respondent shall provide a copy of the executed Consent
7 Agreement to the premises owner/employer within 14 days of the effective
8 date of the Consent Agreement. Respondent shall cause the premises
9 owner/employer to submit a letter to the Board, in writing and on premises
10 owner's/employer's letterhead, acknowledging the receipt of a copy of this
11 Consent Agreement within the specified timeframe and that the premises
12 owner/employer understands the conditions of probation/stayed revocation.
13

14 Continuing Education Plan/Continuing Education

15
16 12. **IT IS FURTHER ORDERED** that Respondent obtain **eight (8) hours of**
17 **continuing education (CE)** as detailed below to be completed within the two
18 (2) year Probation period:

19 13. Based upon the foregoing Findings of Fact and Conclusions of Law,
20 **IT IS ORDERED THAT** Respondent shall provide written proof satisfactory to the
21 Board that he has completed **eight (8) hours of continuing education (CE)** in
22 addition to the existing continuing education required to renew a veterinary
23 license. Respondent shall satisfy this requirement by completing 2 hours of CE in
24 the area of **regulations of the profession**; 2 hours in the area of **medical record**
25

1 **keeping**; 2 hours in the area of **controlled substance management**; and 2 hours
2 in the area of **practice management**. All required CE shall be pre-approved by
3 the Board. Within sixty (60) days of the effective date of this Order, Respondent
4 shall submit to the Board for its approval a **written outline regarding how he**
5 **plans to satisfy the CE requirements**. The outline shall include CE course details
6 including name, provider, date(s), number of CE hours to be earned, and a
7 brief course summary.

8
9 14. Prior to the end of the Probationary period, Respondent shall
10 submit to the Board certificates of completion of the CE outlined in the CE plan
11 which had been approved by the Board.

12 Civil Penalty

13 15. Based upon the foregoing Findings of Fact and Conclusions of Law
14 **IT IS FURTHER ORDERED** that Respondent pay a civil penalty of one thousand five
15 hundred dollars (\$1,500.00) in the form of a **cashier's check, certified check, or**
16 **money order** made payable to the Arizona Veterinary Medical Examining
17 Board on or before the end of the Probationary period/Stayed Revocation.
18

19 16. Respondent shall obey all federal, state and local laws/rules
20 governing certificate holders in this state.

21 17. Respondent shall bear all costs of complying with this Consent
22 Agreement.
23

24 VIOLATION OF TERMS

25

1 18. If Respondent is noncompliant with this Order in any respect, in
2 addition to lifting the stay of revocation for the premises, the Board may take
3 any appropriate disciplinary action, after notice and an opportunity to be
4 heard, authorized by law including the revocation of Respondent's license.

5 ISSUED THIS 24th DAY OF November, 2021.

6 FOR THE BOARD:
7 ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

8 Jim Loughhead, Chairperson

9
10
11 By: 
12 Victoria Whitmore, Executive Director
13
14

15 Original of the foregoing filed
16 This 24th day of November 2021 with:

17 Arizona State Veterinary Medical Examining Board
18 1740 W. Adams St, Ste. 4600
19 Phoenix, Arizona 85007

20 COPY of the forgoing mailed by Certified, return receipt mail
21 This 24th day of November 2021 to:

22 John Oplinger, DVM
23 Address on file
24 Respondent

25 By: 
Board Staff